

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 208

HOUSE BILL 2747

AN ACT

AMENDING SECTION 15-185, ARIZONA REVISED STATUTES; REPEALING SECTION 15-1326, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 11, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1326; AMENDING SECTIONS 41-763.01 AND 41-771, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE SCHOOLS FOR THE DEAF AND BLIND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-185, Arizona Revised Statutes, is amended to
3 read:

4 15-185. Charter schools; financing; civil penalty;
5 transportation; definitions

6 A. Financial provisions for a charter school that is sponsored by a
7 school district governing board are as follows:

8 1. The charter school shall be included in the district's budget and
9 financial assistance calculations pursuant to paragraph 3 of this subsection
10 and chapter 9 of this title, except for chapter 9, article 4 of this
11 title. The charter of the charter school shall include a description of the
12 methods of funding the charter school by the school district. The school
13 district shall send a copy of the charter and application, including a
14 description of how the school district plans to fund the school, to the state
15 board of education before the start of the first fiscal year of operation of
16 the charter school. The charter or application shall include an estimate of
17 the student count for the charter school for its first fiscal year of
18 operation. This estimate shall be computed pursuant to the requirements of
19 paragraph 3 of this subsection.

20 2. A school district is not financially responsible for any charter
21 school that is sponsored by the state board of education or the state board
22 for charter schools.

23 3. A school district that sponsors a charter school may:

24 (a) Increase its student count as provided in subsection B, paragraph
25 2 of this section during the first year of the charter school's operation to
26 include those charter school pupils who were not previously enrolled in the
27 school district. A charter school sponsored by a school district governing
28 board is eligible for the assistance prescribed in subsection B, paragraph 4
29 of this section. The soft capital allocation as provided in section 15-962
30 for the school district sponsoring the charter school shall be increased by
31 the amount of the additional assistance. The school district shall include
32 the full amount of the additional assistance in the funding provided to the
33 charter school.

34 (b) Compute separate weighted student counts pursuant to section
35 15-943, paragraph 2, subdivision (a) for its noncharter school versus charter
36 school pupils in order to maintain eligibility for small school district
37 support level weights authorized in section 15-943, paragraph 1 for its
38 noncharter school pupils only. The portion of a district's student count
39 that is attributable to charter school pupils is not eligible for small
40 school district support level weights.

41 4. If a school district uses the provisions of paragraph 3 of this
42 subsection, the school district is not eligible to include those pupils in
43 its student count for the purposes of computing an increase in its revenue
44 control limit and district support level as provided in section 15-948.

1 5. A school district that sponsors a charter school is not eligible to
2 include the charter school pupils in its student count for the purpose of
3 computing an increase in its capital outlay revenue limit as provided in
4 section 15-961, subsection C, except that if the charter school was
5 previously a school in the district, the district may include in its student
6 count any charter school pupils who were enrolled in the school district in
7 the prior year.

8 6. A school district that sponsors a charter school is not eligible to
9 include the charter school pupils in its student count for the purpose of
10 computing the revenue control limit which is used to determine the maximum
11 budget increase as provided in chapter 4, article 4 of this title unless the
12 charter school is located within the boundaries of the school district.

13 7. If a school district converts one or more of its district public
14 schools to a charter school and receives assistance as prescribed in
15 subsection B, paragraph 4 of this section, and subsequently converts the
16 charter school back to a district public school, the school district shall
17 repay the state the total additional assistance received for the charter
18 school for all years that the charter school was in operation. The repayment
19 shall be in one lump sum and shall be reduced from the school district's
20 current year equalization assistance. The school district's general budget
21 limit shall be reduced by the same lump sum amount in the current year.

22 B. Financial provisions for a charter school that is sponsored by the
23 state board of education or the state board for charter schools are as
24 follows:

25 1. The charter school shall calculate a base support level as
26 prescribed in section 15-943, except that sections 15-941 and 15-942 do not
27 apply to these charter schools.

28 2. Notwithstanding paragraph 1 of this subsection, the student count
29 shall be determined initially using an estimated student count based on
30 actual registration of pupils before the beginning of the school year. After
31 the first one hundred days or two hundred days in session, as applicable, the
32 charter school shall revise the student count to be equal to the actual
33 average daily membership, as defined in section 15-901, or the adjusted
34 average daily membership, as prescribed in section 15-902, of the charter
35 school. Before the one hundredth day or two hundredth day in session, as
36 applicable, the state board of education or the state board for charter
37 schools may require a charter school to report periodically regarding pupil
38 enrollment and attendance and the department of education may revise its
39 computation of equalization assistance based on the report. A charter school
40 shall revise its student count, base support level and additional assistance
41 before May 15. A charter school that overestimated its student count shall
42 revise its budget before May 15. A charter school that underestimated its
43 student count may revise its budget before May 15.

1 3. A charter school may utilize section 15-855 for the purposes of
2 this section. The charter school and the department of education shall
3 prescribe procedures for determining average daily attendance and average
4 daily membership.

5 4. Equalization assistance for the charter school shall be determined
6 by adding the amount of the base support level and additional assistance.
7 The amount of the additional assistance is one thousand four hundred
8 forty-five dollars twenty-five cents per student count in kindergarten
9 programs and grades one through eight and one thousand six hundred
10 eighty-four dollars forty-one cents per student count in grades nine through
11 twelve.

12 5. The state board of education shall apportion state aid from the
13 appropriations made for such purposes to the state treasurer for disbursement
14 to the charter schools in each county in an amount as determined by this
15 paragraph. The apportionments shall be made in twelve equal installments of
16 the total amount to be apportioned during the fiscal year on the fifteenth
17 day of each month of the fiscal year.

18 6. Notwithstanding paragraph 5 of this subsection, if sufficient
19 appropriated monies are available after the first forty days in session of
20 the current year, a charter school may request additional state monies to
21 fund the increased state aid due to anticipated student growth through the
22 first one hundred days or two hundred days in session, as applicable, of the
23 current year as provided in section 15-948. In no event shall a charter
24 school have received more than three-fourths of its total apportionment
25 before April 15 of the fiscal year. Early payments pursuant to this
26 subsection must be approved by the state treasurer, the director of the
27 department of administration and the superintendent of public instruction.

28 7. The charter school shall not charge tuition, levy taxes or issue
29 bonds.

30 8. Not later than noon on the day preceding each apportionment date
31 established by paragraph 5 of this subsection, the superintendent of public
32 instruction shall furnish to the state treasurer an abstract of the
33 apportionment and shall certify the apportionment to the department of
34 administration, which shall draw its warrant in favor of the charter schools
35 for the amount apportioned.

36 C. If a pupil is enrolled in both a charter school and a public school
37 that is not a charter school, the sum of the daily membership, which includes
38 enrollment as prescribed in section 15-901, subsection A, paragraph 2,
39 subdivisions (a) and (b) and daily attendance as prescribed in section
40 15-901, subsection A, paragraph 6, for that pupil in the school district and
41 the charter school shall not exceed 1.0, except that if the pupil is enrolled
42 in both a charter school and a joint technological education district and
43 resides within the boundaries of a school district participating in the joint
44 technological education district, the sum of the average daily membership for
45 that pupil in the charter school and the joint technological education

1 district shall not exceed 1.25. If a pupil is enrolled in both a charter
 2 school and a public school that is not a charter school, the department of
 3 education shall direct the average daily membership to the school with the
 4 most recent enrollment date. Upon validation of actual enrollment in both a
 5 charter school and a public school that is not a charter school and if the
 6 sum of the daily membership or daily attendance for that pupil is greater
 7 than 1.0, the sum shall be reduced to 1.0 and shall be apportioned between
 8 the public school and the charter school based on the percentage of total
 9 time that the pupil is enrolled or in attendance in the public school and the
 10 charter school, except that if the pupil is enrolled in both a charter school
 11 and a joint technological education district and resides within the
 12 boundaries of a school district participating in the joint technological
 13 education district, the sum of the average daily membership for that pupil in
 14 the charter school and the joint technological education district shall be
 15 reduced to 1.25 and shall be apportioned between the charter school and the
 16 joint technological education district based on the percentage of total time
 17 that the pupil is enrolled or in attendance in the charter school and the
 18 joint technological education district. The uniform system of financial
 19 records shall include guidelines for the apportionment of the pupil
 20 enrollment and attendance as provided in this section.

21 D. Charter schools are allowed to accept grants and gifts to
 22 supplement their state funding, but it is not the intent of the charter
 23 school law to require taxpayers to pay twice to educate the same pupils. The
 24 base support level for a charter school or for a school district sponsoring a
 25 charter school shall be reduced by an amount equal to the total amount of
 26 monies received by a charter school from a federal or state agency if the
 27 federal or state monies are intended for the basic maintenance and operations
 28 of the school. The superintendent of public instruction shall estimate the
 29 amount of the reduction for the budget year and shall revise the reduction to
 30 reflect the actual amount before May 15 of the current year. If the
 31 reduction results in a negative amount, the negative amount shall be used in
 32 computing all budget limits and equalization assistance, except that:

33 1. Equalization assistance shall not be less than zero.

34 2. For a charter school sponsored by the state board of education or
 35 the state board for charter schools, the total of the base support level, the
 36 capital outlay revenue limit, the soft capital allocation and the additional
 37 assistance shall not be less than zero.

38 3. For a charter school sponsored by a school district, the base
 39 support level for the school district shall not be reduced by more than the
 40 amount that the charter school increased the district's base support level,
 41 capital outlay revenue limit and soft capital allocation.

42 E. If a charter school was a district public school in the prior year
 43 and is now being operated for or by the same school district and sponsored by
 44 the state board of education, the state board for charter schools or a school
 45 district governing board, the reduction in subsection D of this section

1 applies. The reduction to the base support level of the charter school or
2 the sponsoring district of the charter school shall equal the sum of the base
3 support level and the additional assistance received in the current year for
4 those pupils who were enrolled in the traditional public school in the prior
5 year and are now enrolled in the charter school in the current year.

6 F. Equalization assistance for charter schools shall be provided as a
7 single amount based on average daily membership without categorical
8 distinctions between maintenance and operations or capital.

9 G. At the request of a charter school, the county school
10 superintendent of the county where the charter school is located may provide
11 the same educational services to the charter school as prescribed in section
12 15-308, subsection A. The county school superintendent may charge a fee to
13 recover costs for providing educational services to charter schools.

14 H. If the sponsor of the charter school determines at a public meeting
15 that the charter school is not in compliance with federal law, with the laws
16 of this state or with its charter, the sponsor of a charter school may submit
17 a request to the department of education to withhold up to ten per cent of
18 the monthly apportionment of state aid that would otherwise be due the
19 charter school. The department of education shall adjust the charter
20 school's apportionment accordingly. The sponsor shall provide written notice
21 to the charter school at least seventy-two hours before the meeting and shall
22 allow the charter school to respond to the allegations of noncompliance at
23 the meeting before the sponsor makes a final determination to notify the
24 department of education of noncompliance. The charter school shall submit a
25 corrective action plan to the sponsor on a date specified by the sponsor at
26 the meeting. The corrective action plan shall be designed to correct
27 deficiencies at the charter school and to ensure that the charter school
28 promptly returns to compliance. When the sponsor determines that the charter
29 school is in compliance, the department of education shall restore the full
30 amount of state aid payments to the charter school.

31 I. In addition to the withholding of state aid payments pursuant to
32 subsection H of this section, the sponsor of a charter school may impose a
33 civil penalty of one thousand dollars per occurrence if a charter school
34 fails to comply with the fingerprinting requirements prescribed in section
35 15-183, subsection C or section 15-512. The sponsor of a charter school
36 shall not impose a civil penalty if it is the first time that a charter
37 school is out of compliance with the fingerprinting requirements and if the
38 charter school provides proof within forty-eight hours of written
39 notification that an application for the appropriate fingerprint check has
40 been received by the department of public safety. The sponsor of the charter
41 school shall obtain proof that the charter school has been notified and the
42 notification shall identify the date of the deadline and shall be signed by
43 both parties. The sponsor of a charter school shall automatically impose a
44 civil penalty of one thousand dollars per occurrence if the sponsor
45 determines that the charter school subsequently violates the fingerprinting

1 requirements. Civil penalties pursuant to this ~~section~~ SUBSECTION shall be
2 assessed by requesting the department of education to reduce the amount of
3 state aid that the charter school would otherwise receive by an amount equal
4 to the civil penalty. The amount of state aid withheld shall revert to the
5 state general fund at the end of the fiscal year.

6 J. A charter school may receive and spend monies distributed by the
7 department of education pursuant to section 42-5029, subsection E and section
8 37-521, subsection B.

9 K. IF A SCHOOL DISTRICT TRANSPORTS OR CONTRACTS TO TRANSPORT PUPILS TO
10 THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND DURING ANY FISCAL YEAR,
11 THE SCHOOL DISTRICT MAY TRANSPORT OR CONTRACT WITH A CHARTER SCHOOL TO
12 TRANSPORT SENSORY IMPAIRED PUPILS DURING THAT SAME FISCAL YEAR TO A CHARTER
13 SCHOOL IF REQUESTED BY THE PARENT OF THE PUPIL AND IF THE DISTANCE FROM THE
14 PUPIL'S PLACE OF ACTUAL RESIDENCE WITHIN THE SCHOOL DISTRICT TO THE CHARTER
15 SCHOOL IS LESS THAN THE DISTANCE FROM THE PUPIL'S PLACE OF ACTUAL RESIDENCE
16 WITHIN THE SCHOOL DISTRICT TO THE CAMPUS OF THE ARIZONA STATE SCHOOLS FOR THE
17 DEAF AND THE BLIND.

18 ~~K.~~ L. For the purposes of this section:

19 1. "Monies intended for the basic maintenance and operations of the
20 school" means monies intended to provide support for the educational program
21 of the school, except that it does not include supplemental assistance for a
22 specific purpose or P.L. 81-874 monies. The auditor general shall determine
23 which federal or state monies meet the definition in this paragraph.

24 2. "Operated for or by the same school district" means the charter
25 school is either governed by the same district governing board or operated by
26 the district in the same manner as other traditional schools in the district
27 or is operated by an independent party that has a contract with the school
28 district. The auditor general and the department of education shall
29 determine which charter schools meet the definition in this subsection.

30 Sec. 2. Delayed repeal

31 Section 15-1326, Arizona Revised Statutes, is repealed from and after
32 June 30, 2009.

33 Sec. 3. Title 15, chapter 11, article 2, Arizona Revised Statutes, is
34 amended by adding a new section 15-1326, to read:

35 15-1326. Probationary period for teachers

36 THE PROBATIONARY PERIOD FOR TEACHERS EMPLOYED BY THE ARIZONA STATE
37 SCHOOLS FOR THE DEAF AND THE BLIND SHALL BE TWO YEARS FROM THE FIRST DAY OF
38 EMPLOYMENT.

39 Sec. 4. Section 41-763.01, Arizona Revised Statutes, is amended to
40 read:

41 41-763.01. Annual report and recommendation

42 A. The director shall prepare a report on state personnel and the
43 operation of the state personnel system.

44 B. The report shall include:

1 1. Information concerning all state employees, including employees of
2 all executive, legislative and judicial branch agencies. All agencies shall
3 provide any information requested by the director to prepare the annual
4 report.

5 2. Information concerning the number of employees affected by and
6 reasons for turnover within state service.

7 3. Information concerning the compensation during the preceding year
8 and the coming year of state employees and the compensation of other public
9 employees and private employees.

10 4. An advisory recommendation on the salary plan and adjustments to
11 the plan for employees in state service. In establishing the salary plan,
12 the director shall consider the relative levels of duties and
13 responsibilities of the various classes of positions, rates paid for
14 comparable positions elsewhere and other relevant factors.

15 5. An advisory recommendation for all positions that have been
16 exempted from covered service pursuant to section 41-771. Salary
17 recommendations shall not be required for elected officials. The director
18 shall make advisory salary recommendations for specific positions in the
19 governor's office, the legislature and the courts if requested by the
20 respective administrative heads of these units of state government.

21 6. The overtime pay requirements of all state agencies, except those
22 agencies excluded by section 41-771.

23 7. Other information as determined by the director.

24 C. The annual report and recommendations shall be presented to the
25 governor and the legislature on or before September 1 of each year.

26 D. Notwithstanding section 41-771, the Arizona board of regents, the
27 department of public safety, ~~AND the judicial department and the Arizona~~
28 ~~state schools for the deaf and blind~~ shall prepare and submit an annual
29 report on their personnel as prescribed in this section. The report shall
30 include:

31 1. Information concerning the number of employees affected by and
32 reasons for turnover of their employees.

33 2. Information concerning the compensation during the preceding year
34 and the coming year of their employees and the compensation of other public
35 employees and private employees.

36 3. An advisory recommendation on the salary plan and adjustments for
37 their employees. In establishing the salary plan, they shall consider the
38 relative levels of duties and responsibilities of the various classes of
39 positions, rates paid for comparable positions elsewhere and other relevant
40 factors.

41 4. Their overtime pay requirements.

42 Sec. 5. Section 41-771, Arizona Revised Statutes, is amended to read:
43 41-771. Exemptions

44 A. This article and article 6 of this chapter do not apply to:

45 1. Elected state officers.

1 2. State officers and members of boards and commissions who are
2 appointed by the legislature or the governor, the employees of the governor's
3 office, the employees of the Arizona legislative council and the employees of
4 the supreme court and the court of appeals.

5 3. State officers and employees who are appointed or employed by the
6 legislature or either house of the legislature.

7 4. The curator, curatorial aides and tour guides and any other person
8 who is employed to work in the state capitol museum.

9 5. Officers or employees of state universities ~~and personnel of the~~
10 ~~Arizona state schools for the deaf and the blind.~~

11 6. Patients or inmates who are employed in state institutions.

12 7. Officers and enlisted personnel of the national guard of Arizona.

13 8. The single administrative or executive director and one deputy
14 director of each state department or agency.

15 9. Not more than two assistants who serve in the office of an elected
16 state officer, if that elected state officer is the sole elected head of the
17 department.

18 10. One administrative assistant who serves a board or commission
19 elected to head a state agency, department or division, and one assistant for
20 each elected member of such a board or commission.

21 11. Persons who report directly to the governor.

22 12. Employees of the department of emergency and military affairs who
23 occupy Arizona national guard positions identified as mobilization assets.

24 13. Except as otherwise required by federal law and except for
25 certified peace officers as defined in section 38-842, correctional officers
26 and juvenile correctional officers, state officers and employees who are
27 appointed or employed after December 31, 2006 and who are at a pay grade of
28 twenty-four or above.

29 14. Any other position exempted by law.

30 B. Except for section 41-772, subsections D, E and F, this article and
31 article 6 of this chapter do not apply to those positions determined by the
32 director to meet any of the following criteria:

33 1. Top level positions in a department or agency that determine and
34 publicly advocate substantive program policy. This includes those persons
35 who are engaged in the direction of line operations if they report directly
36 to the director or deputy director of the agency and in large multiprogram
37 agencies those persons who report directly to the head of a primary component
38 of the department or agency.

39 2. Those persons who are required to maintain a direct confidential
40 working relationship with an exempt official.

41 3. Persons who provide legal counsel.

42 4. Positions that are part time.

43 5. Positions that are temporary and that are established for the
44 purpose of conducting a special project, study or investigation.

45 6. Positions that are essentially for rehabilitation purposes.

1 7. Positions that are determined by the director to be directly or
2 indirectly engaged in establishing policy or enforcement standards.

3 8. Directors of all institutions that maintain supervision or care on
4 a twenty-four hour per day basis other than halfway houses or group homes.

5 Sec. 6. Conditional enactment; effective date; notice

6 A. Section 2 of this act, section 15-1326, Arizona Revised Statutes,
7 as added by this act, and sections 41-763.01 and 41-771, Arizona Revised
8 Statutes, as amended by this act, are effective from and after June 30, 2009
9 only if before July 1, 2009 the legislature appropriates sufficient monies to
10 the department of administration to fund the provisions of this act.

11 B. The director of the department of administration shall notify in
12 writing the director of the Arizona legislative council of the date on which
13 the condition is met or if the condition is not met.

APPROVED BY THE GOVERNOR MAY 15, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 15, 2008.